

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Teresa MUJICA-FERNAUD

Examiner: Roy P. Issac

Serial No.: 10/725,346

Group Art Unit: 1623

Filed: December 2, 2003

Title: 2-OXADIAZOLECHROMONE DERIVATIVES

RESPONSE TO REQUIREMENT FOR RESTRICTION

Mail Stop
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

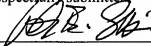
In response to the requirement for restriction mailed October 4, 2006, Applicants hereby elect group I, claims drawn to compounds of formula I, and processes of preparation thereof. The requirement for a restriction is respectfully traversed.

The requirement for restriction is respectfully traversed, inasmuch as it separates out the claims of group II, drawn to methods of treating various indications, with the compounds of formula I, in group I. It is submitted that the claims of group II are related to the claims of group I as combination to sub-combination, inasmuch as the combination claims, and the method of treating employing the compounds, contains all of the elements of the sub-combination, the compounds themselves. In such a situation, where claims are related as combination to sub-combination, *2-way* distinctness must be shown in order to support a restriction. In other words, it must be shown not only that the compounds can be used in different methods, but that the method can be employed with a different compound. Inasmuch as the method claims *require* compounds of group I, such distinctness cannot be shown, and withdrawal of the restriction

requirement is appropriate. Moreover, it is noted that the claims of group II would be rejoined under MPEP § 821.04, at such time as allowable compound claims are found. Thus, where there is little, if any, additional work to examine the claims of group II, MPEP § 803 mandates maintaining all claims of the application together for examination. I.e., because there is no additional burden on the Examiner. Withdrawal of the restriction requirement is therefore respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Harry B. Shubin, Reg. No. 32,004
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410
Attorney Docket No.: MERCK-2808
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HBS/pdr